

## Senate File 90 - Introduced

SENATE FILE 90

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### A BILL FOR

1 An Act requiring drug testing for persons applying for or  
2 receiving state assistance.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   77.1   State assistance — drug  
2   testing requirement.

3     1. For purposes of this section, unless the context  
4   otherwise requires:

5     *a.*   “*Department*” means the applicable state department,  
6   institution, or agency providing state aid.

7     *b.*   “*Drug*” means the same as defined in section 730.5.

8     *c.*   “*State aid*” means any form of financial benefit, aid,  
9   or assistance provided to a person by a state department,  
10  institution, or agency.

11    2. As a condition of eligibility for an applicant or  
12  participant to receive state aid, the applicant or participant  
13  shall, if not otherwise prohibited by law, agree to participate  
14  in drug testing in accordance with this section.

15    3. The department shall implement a program of drug testing  
16  of persons subject to subsection 2. The program shall include  
17  but is not limited to all of the following:

18     *a.*   Random drug testing of existing participants.

19     *b.*   Drug testing of all applicants.

20     *c.*   Drug testing shall include confirmation of any  
21  initial positive test results. Any confirmatory test shall  
22  be performed using a chromatographic technique such as gas  
23  chromatography/mass spectrometry or another comparably reliable  
24  analytical method.

25    4. An applicant or participant subject to the provisions  
26  of subsection 2 who has a confirmed positive test result for  
27  a drug that was not lawfully prescribed for the person, shall  
28  be ineligible for state aid. The period of ineligibility  
29  applicable to a person shall continue until the person has a  
30  negative test result for the drug for which the person had a  
31  confirmed positive test result.

32    5. A person’s positive test result obtained under this  
33  section shall not be used as evidence in any criminal action  
34  involving the person.

35    6. The applicable department shall adopt rules to

1 administer this section. The rules shall include but are not  
2 limited to all of the following:

3     *a.* Testing procedures to ensure collection of test samples  
4 is performed under sanitary conditions, with regard for the  
5 privacy of the person providing the sample, and in a manner  
6 reasonably calculated to preclude contamination or substitution  
7 of the sample. Test samples shall be split at the time of  
8 collection to permit confirmatory tests of the sample. The  
9 department shall establish standards for analysis of samples  
10 and for determining test results to be positive.

11     *b.* Labeling and other documentation of test sample  
12 collections so as to reasonably preclude the possibility of  
13 misidentification of the person tested in relation to the test  
14 result provided, and requirement for samples to be handled and  
15 tracked in a manner such that control and accountability are  
16 maintained from initial collection to each stage in handling,  
17 testing, and storage, through final disposition.

18     *c.* A person being tested shall be given an opportunity  
19 to provide any information which may be considered relevant  
20 to the test, including identification of prescription or  
21 nonprescription drugs currently or recently used, or other  
22 relevant medical information. To assist a person in providing  
23 the information described in this paragraph, the department  
24 shall provide the person with a list of the drugs for which the  
25 person is tested.

26     *d.* A medical review officer shall review and interpret any  
27 confirmed positive test results, including both quantitative  
28 and qualitative test results, to ensure that the chain of  
29 custody is complete and sufficient on its face and that any  
30 information provided by the person pursuant to paragraph "*c*" is  
31 considered.

32     *e.* A procedure to provide written notification to a person  
33 of the results of a confirmed positive drug test by certified  
34 mail or other verifiable means. The notification shall include  
35 the person's right to request and obtain a second confirmatory

1 test at an approved laboratory of the person's choice. If the  
2 results of the second test do not confirm the results of the  
3 initial confirmatory test, the initial confirmatory test shall  
4 not be considered a confirmed positive drug test.

5 *f.* The department shall prohibit a laboratory or other  
6 medical facility reporting information to anyone other than the  
7 department or the tested person relating to the results of a  
8 drug test conducted pursuant to this section.

9 *g.* A procedure to address incidents of false positive tests.

10 *h.* A procedure to ensure the confidentiality of test  
11 results, including but not limited to specifying those with  
12 access to test result information.

13 *i.* Other procedures to administer this section in a fair and  
14 reliable manner.

15 EXPLANATION

16 This bill establishes a requirement that individuals  
17 applying and receiving state aid participate in drug testing if  
18 such drug testing is not otherwise prohibited by law.

19 The bill defines the term "drug" as having the same  
20 meaning as the definition in Code section 730.5, relating to  
21 private-sector drug-free workplaces, which is any drug on  
22 schedules I through V of the federal Controlled Substances  
23 Act. "State aid" is defined as any form of financial benefit,  
24 aid, or assistance provided to a person by a state department,  
25 institution, or agency.

26 Each applicable state department, institution, or agency  
27 providing state aid shall implement a drug testing program  
28 for the persons subject to the eligibility requirement. The  
29 program is to include random drug testing of participants  
30 and drug testing of all applicants. Drug testing includes  
31 confirmation of any positive result with a chromatographic/mass  
32 spectrometry technique or comparable method.

33 If an applicant or participant subject to the bill's  
34 requirements has a confirmed positive test result for a drug  
35 that was not lawfully prescribed for the person, the applicant

1 or participant is ineligible for state aid. The period of  
2 ineligibility continues until the person has a negative test  
3 result for the drug for which the person had a confirmed  
4 positive test result.

5 The bill prohibits a person's positive test result obtained  
6 under the bill's provisions from being used as evidence in any  
7 criminal action involving the person.

8 The department is directed to adopt rules to administer the  
9 provisions of the bill. The rules are to address collection,  
10 labeling, and other documentation of test samples, notification  
11 concerning test results, interpretation of test results,  
12 prohibition against laboratory disclosure of test results,  
13 other confidentiality provisions, procedure to address  
14 incidents of false positive tests, and other procedures for  
15 fairness and reliability.